

REMARKS

Applicant respectfully requests reconsideration in view of the foregoing amendments and the remarks hereinbelow.

Reconsideration of the Examiner's rejection of claims 14-18 and 31-34 under 35 U.S.C. § 112, first paragraph, is respectfully requested.

The Examiner contends that the claim limitations "determining the direction of the image texture" and "calculating an offset angle" are not enabled by the present specification. In particular, the Examiner asserts that there is no description on how the direction of the texture image is determined, and that there is no description as to how an offset angle is determined.

With respect to the element "determining the direction of the image texture", Applicant respectfully notes that, contrary to the Examiner's assertion, determination of the direction of the texture image is described in detail in the present specification. For example, a detailed, step-by-step description of the process of determining the direction of the texture image, accompanied by illustrations and a flow chart which depict each step of the process, is given at Page 25, Line 6 to Page 26, Line 22. As noted in the referenced text, a reference directional texture image is input, and a texture edge image is created using a Canny operator. Then, a Hugh transform is applied to the texture edge image to determine the textural direction. The specification also provides literature references which describe the Canny operator and Hugh transform in detail.

The Examiner points to Applicant's statement at Page 24, Line 29 to Page 25, Line 5 of the specification as evidence of non-enablement. The cited section states that ensuring that the synthetic texture image retains the same directionality as the reference texture is non-trivial, and explains two reasons why this is so: (1) that it is extremely difficult to precisely model the directionality of the texture in a mathematical form with a limited number of parameters; and (2) that it is extremely difficult to incorporate such information into texture analysis/synthesis algorithms, even if the directional information is obtained.

However, this section of the specification immediately follows a discussion of the MBS algorithm and is part of a discussion about why that particular algorithm does not work well for directional textures. Hence, when taken in context, it is clear that the cited language is merely describing the difficulties encountered in solving the problem to which the present invention is

directed, as opposed to describing any difficulties in utilizing the approach of the invention. Indeed, when the present specification is fairly construed as a whole, it is clear that the approach of the present invention overcomes these difficulties. This interpretation is underscored by the last sentence in the cited portion: “In fact, directional texture analysis/interpretation remains largely an open problem within the *prior art*.” [emphasis added]

The Examiner also points to the language at Page 26, Lines 19-22 as evidence of lack of enablement. This language notes that the effectiveness of the preceding method is generally limited to directional textures containing linear structures. However, Applicant respectfully notes that there is no requirement in 35 U.S.C.

§ 112, 1st paragraph, that the claimed invention be effective at synthesizing directional textures from every type of image. Rather, 35 U.S.C. § 112, 1st paragraph merely requires that the claimed invention be described sufficiently so that one skilled in the art can make and use the invention. Since such a description has been provided in the present specification, at least with respect to textures containing linear structures, the requirements of this portion of the code have been satisfied.

With respect to the element “calculating an offset angle”, the Examiner asserts that there is no description of how an offset angle is determined. However, at Page 10, Lines 15-17 of the present specification, it is noted that the offset angle is the difference between the determined direction and the reference direction (these later two terms are described in great detail in the specification). This angle is calculated by the Hough transform. In this regard, the Examiner is respectfully reminded that the specification must be read as a whole for what it teaches to one skilled in the art. One skilled in the art would be familiar with the Hough transform, as evidenced by the literature reference to the same at Page 25, Lines 13-14 of the specification, and hence would understand that the Hough transform involves an offset angle, and would further understand, from familiarity with the transform itself, how that angle is calculated. It is thus respectfully submitted that the specification is enabling as to this element of the claimed invention.

Reconsideration of the Examiner's rejection of claims 14-18 and 31-34 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

The cited claims have been amended with this response to address the various infirmities noted by the Examiner. It is thus respectfully submitted that the Examiner's rejection has been overcome.

Reconsideration of the Examiner's rejection of claims 1-13, 19-30 and 35 under 35 U.S.C. § 102(b) as being anticipated by Bar-Joseph et al. is respectfully requested.

The treatment of journal articles under 35 U.S.C. § 102 is described in M.P.E.P. § 2128.02. As noted therein,

A JOURNAL ARTICLE OR OTHER PUBLICATION BECOMES AVAILABLE AS PRIOR ART ON DATE OF IT IS RECEIVED BY A MEMBER OF THE PUBLIC

A publication disseminated by mail is not prior art until it is received by at least one member of the public. Thus, a magazine or technical journal is effective as of its date of publication (date when first person receives it) not the date it was mailed or sent to the publisher. *In re Schlittler*, 234 F.2d 882, 110 USPQ 304 (CCPA 1956).

Hence, the relevant date of inquiry for a journal article under a 102 analysis is the date of publication, not the date the article was first received by the publisher or the date upon which the article was accepted by the publisher. Since Bar-Joseph et al. was published in 2001 (the same year the present application was filed), it does not qualify as prior art under 35 U.S.C. § 102(b), because it was not published more than a year before the filing date of the present application. For the sake of completeness, Applicant respectfully notes that, since the journal in question is published on a quarterly basis (hence the designation April-June 2001), the Examiner has not even established that Bar-Joseph was published prior to the filing date of the present application, let alone a year before the filing date.

It is respectfully submitted, therefore, that in view of the above amendments and remarks, that this application is now in condition for allowance, prompt notice of which is earnestly solicited.

Respectfully submitted,



Attorney for Applicant(s)
Registration No. 30,700

Robert Luke Walker/amb
Rochester, NY 14650
Telephone: (585) 588-2739
Facsimile: (585) 477-1148